

HIGH COURT OF CHHATTISGARH, BILASPUR**S.A. No. 253 of 2003**

Moti Ram S/o Sadaram, aged about 43 years, Caste – Satnami, R/o Belgahna (Nawapara), Tahsil Takhatpur, District Bilaspur, C.G., Present Address – Changori (Lakhodana), Tahsil Kota, District Bilaspur (C.G.)

---- Appellant/ Objector

Versus

1. Bhagau S/o Kumbh, aged about 30 years, Caste – Satnami, R/o Belgahna (Nawapara), Tahsil Takhatpur, District Bilaspur (C.G.)[Decree Holder]
2. Reshamlal S/o Late Budhram, aged about 53 years, Caste – Satnami, R/o Belgahna (Nawapara), Tahsil Takhatpur, District Bilaspur (C.G.)..... [Judgment Debtor]
3. Suresh S/o Late Budhram, aged about 30 years, Caste – Satnami, R/o Belgahna (Nawapara), Tahsil Takhatpur, District Bilaspur (C.G.) [Judgment Debtor]
4. The State of Chhattisgarh, through Collector, Bilaspur (C.G.)

--- Respondents / Defendants

For Appellant / Objector	:	Mr. A. K. Prasad, Advocate.
For Respondent No. 4 / State	:	Mr. Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/08/18

1. The trial Court granted decree in favour of respondent No. 1 on 08.07.1993 in Civil Suit No. 87-A/90. The decree got executed on 10.01.1995 and after the execution of the decree, appellant has filed an application under Order 21 Rule 97 read with Section 100 of Code of Civil Procedure, 1908 (for short, 'C.P.C.') for appointment of commission and recovery of damages which has been rejected by the trial Court as well as by the Appellate Court, aggrieved against which this second appeal has been preferred.

2. I have heard learned counsel for the appellant on question of admission of second appeal.

3. By filing an application under Order 21 Rule 97, the appellant did not claim possession, he has claimed for damages for the illegal dispossession.

Order 21 Rule 100 provides as under :-

“O.21, R.100. Order to be passed upon application complaining of dispossession. - Upon the determination of the questions referred in r 101, the Court shall, in accordance with such determination, -

- (a) make an order allowing the application and directing that the applicant be put into possession of the property or dismissing the application; or
- (b) pass such order as, in the circumstances of the case, it may deem fit.

A careful perusal of the aforesaid would show that relief claimed by the appellant i.e. damages for alleged illegal dispossession cannot be granted as appellant has not claimed that he be put into possession of property.

4. Accordingly, the second appeal deserves to be dismissed. However, the petitioner would be at liberty to proceed strictly in accordance with law for the damages.

Sd/-

(Sanjay K. Agrawal)
Judge